



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,983	12/22/2000	Jim Mao	005043.P009	1397

7590 01/28/2004

Michael J. Mallie
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

EXAMINER

SAX, STEVEN PAUL

ART UNIT	PAPER NUMBER
----------	--------------

2174

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/745,983

Applicant(s)

Mao

Examiner

Steve Sax

Art Unit

2174



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/6/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

Art Unit: 2174

DETAILED ACTION

1. This application has been examined. The amendment filed 11/6/03 has been entered.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 6, 11-13, 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Iwamura (5883621).
4. Regarding claim 1, Iwamura shows selecting by a user a connection source and destination from a graphical user interface that displays a topology of a network (Figures 6-7, 12, column 2 lines 1-8, column 3 lines 7-20), executing a routing algorithm to determine a path through the network from a plurality of possible paths having as endpoints the connection source and destination (Figure 12, column 8 lines 17-35 and 56-65), provisioning the connection within the network that corresponds to the path (Figures 6-7, column 6-18).

Art Unit: 2174

5. Regarding claim 2, a distributed algorithm is executed at a node (column 5 lines 5-25, column 6 lines 23-33).

6. Regarding claim 3, the topology information is sent from a first node to a second node (column 5 lines 5-25).

7. Regarding claim 6, the routing algorithm is executed at a network control management system (column 4 lines 15-30).

8. Claims 11-13 and 16 show the same features as above and are rejected for the same reasons.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4-5, 7-10, 14-15, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwamura (5883621) and Rakoshitz et al (6578077).

Art Unit: 2174

11. Regarding claim 4, in addition to the aforementioned, Iwamura does not go into the details of the bandwidth resource information being sent from one node to another, but does mention routing information from one node to another for efficient monitoring of a network. Furthermore, Rakoshitz et al show sending bandwidth information for efficient monitoring of a network (column 4 lines 57-68, Figure 3, column 10 lines 15-35, Figure 9A, column 16 lines 44-60). It would have been obvious to a person with ordinary skill in the art to include bandwidth information in the information being sent from one node to another in Iwamura, because it would allow efficient monitoring of a network.

12. Regarding claim 5, in addition to the aforementioned, Iwamura does not go into the details of the Quality of Service information being sent from one node to another, but does mention routing information from one node to another for efficient monitoring of a network. Furthermore, Rakoshitz et al show sending Quality of Service information for efficient monitoring of a network (column 4 lines 40-55, Figures 9A-15, column 16 lines 44-59, column 17 lines 8-33). It would have been obvious to a person with ordinary skill in the art to include Quality of Service information in the information being sent from one node to another in Iwamura, because it would allow efficient monitoring of a network.

13. Regarding claims 7-8, a graphical user interface is used to select the bandwidth and Quality of Service parameters (Rakoshitz et al see Figures 9-11 for example).

Art Unit: 2174

14. Regarding claims 9-10, the Quality of Service parameters include end to end transit delay (Rakoshitz et al column 5 lines 3-16) and jitter (Rakoshitz et al column 5 lines 17-25).

15. Claims 14-15 and 17-20 show the same features as claims 4-5 and 7-10 and are rejected for the same reasons as those claims.

16. Applicant's arguments filed have been fully considered but they are not persuasive. Iwamura in fact does show the routing algorithm in the sense that it determines the path in the network to connect the source to destination. There are still plural paths, and the connection from amongst them is at least inherent, if not in fact explicit - if applicant means anything more this must be brought out fully in the claims. Note that most changes, especially to the independent claims, are rewordings as well as the features discussed here.

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

Art Unit: 2174

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

18. Any inquiry concerning this communication should be directed to Steve Sax at telephone number (703) 305-9582.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Sax whose telephone number is (703) 305-9582. The examiner can normally be reached on Monday - Friday from 8:30 AM to 5:00 PM.

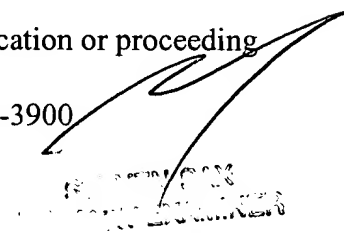
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703)872-9306

Official Communication

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900

A handwritten signature in black ink is written over a rectangular stamp. The signature is stylized and appears to be 'Sax'. The stamp contains text that is partially obscured by the signature but seems to include a date and time, possibly 'JUN 11 2010' and '10:00 AM'.